



MAINE COURT UPHOLDS AWARD OF WORKERS' COMP

Cautionary case for employers that allow employees to work at home

When employee working at home had fatal heart attack on treadmill, Law Court held on January 22, 2015 that Workers' Compensation Board properly applied presumption of compensability in death cases.

L Presumption of Causation

In *Estate of Sullwold v Salvation Army*, the court confirmed that in case of death – even when working at home – there is a rebuttable presumption that the death was caused by work, provided other evidence suggests a “rational potential” of work relatedness. Here, the evidence was that Sullwold was under extraordinary work stress and that his employer permitted his use of the treadmill at home because it allowed him to work while exercising, as recommended by his doctor.



COURT'S HOLDING

Once this presumption was applied, the court held that the death would be deemed work related *unless* the employer produced evidence that it was as probable as not that the death was not work related – in other words that that evidence was in balance. The court held that the evidence offered by the employer – medical evidence and evidence about use of the treadmill – was not enough to rebut the presumption.



LESSONS LEARNED

1. REVIEW YOUR POLICY

Many employers permit employees to work at home – and thousands did just that during Winter Storm Juno. But do you know where, when, and how your employees are working? Your policy should make these expectations clear.

2. MONITOR

Employers should define the time and places that work is to be performed. Otherwise, they may end up insuring any injury that occurs anywhere or anytime at the employee's home. Employers have a right and an interest in monitoring the time, place, and ergonomics of work at home.



To learn more about this or any other HR-related issues, please contact any of our Employment Attorneys.

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